IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

Crl.MC.No. 2039 of 2007()

CMP.2499/2007 of JUDL.MAGISTRATE OF FIRST CLASS, PERUMBAVOOR

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PETITIONER: CLAIM PETITIONER:

AZAD ULLA FAROOKKI, S/O.JALALUDDEEN,
NETAJI NAGAR, SREE HANGAMA APARTMENTS,
KADAVANTHRA, ERNAKULAM.

BY ADV. SRI.K.SUNILKUMAR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. NO. 2039 OF 2007

Dated this the 3rd day of July, 2007

ORDER

The petitioner is the victim who was robbed in a case registered under Sec.394 of the IPC. He was allegedly robbed of an amount of Rs.71,000/-. Subsequently, the accused was arrested and the said amount was recovered from the possession of the accused. The petitioner applied for release of the said amount of Rs.71,000/- to him. The learned Magistrate, by the impugned order, rejected the said prayer for release of the amount on the ground that if the property (i.e., cash) were released, it may not available specifically at the stage of trial.

2. Notice was given to the learned Public Prosecutor. The learned Public Prosecutor was requested to explain whether specific identification of the currency notes in

question is in any way relevant and vital for a proper prosecution. The learned Public Prosecutor submits that there is no special feature in this case which makes specific identification of the notes recovered relevant or important. It is the case of the prosecution that the currency notes belonged to the petitioner herein. I am, in these circumstances, of opinion that the courts have to take note of the plight of the victims in a case of robbery like the instant one. Subject to appropriate terms and conditions the property can be released to the victim/the de facto complainant. Appropriate conditions can, of course, be imposed.

3. In the result:

(i) This petition is allowed.

(ii) The amount of Rs.71,000/- in the custody of the court shall be released to the petitioner after getting a proper inventory of the currency notes taken, specifying the number and details of the currency notes.

(iii) The petitioner shall also execute a bond for Rs.75,000/- with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(iv) In the bond to be executed by the petitioner, he shall undertake to place at the disposal of the court an amount of Rs.75,000/- as and when directed by the court to do so.

4. This petition is accordingly allowed to the above extent.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge